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6 Pro Se

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JAN 28 2019

SEAN F. McAVOY, CLERK
DEPUTY
SPOKANE, WASHINGTON

7 UNITED STATES DISTRICT COURT
8 FOR THE EASTERN DISTRICT OF WASHINGTON
9 AT SPOKANE

10 JODIANNE WAGNER PRO SE,

11 Plaintiff,

12 vs.

13 COUNTY OF SPOKANE, a public
14 entity; DOES 1 through 3,
15 individuals, inclusive; Andria
16 Underwood, an individual; Laura
17 Garr, an individual,

18 Defendants

Case No.: 2:19-CV-040-RMP

COMPLAINT FOR DAMAGES

Claim 1 - 42 U.S.C. §1983

• Count 1 -
Unwarranted Entry and Search

Claim 2 - Monell-Related Claims

• Count 1 as to
County of
Spokane

28 COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. §1983
AND SEARCH CLAIM 2 - MONELL-RELATED CLAIMS
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• COUNT 1 - UNWARRANTED ENTRY
• COUNT 1 AS TO COUNTY OF

Jurisdiction and Venue

1. Plaintiff JODIANNE WAGNER, brings this action pursuant

to 42 U.S.C. §1983, et. seq., to redress the

deprivation of rights secured to her under the United

States Constitution, including the First, Fourth, and

Fourteenth Amendments, and under federal and state

law. Said deprivations were inflicted by the

Defendants herein, and each of them, in some manner.

Each of the Defendants herein were at all relevant

times acting under color of law.

2. Jurisdiction is conferred on this Court by 28 U.S.C.

§§ 1343(a)(3) and 1343(a)(4), which provide for

1 original jurisdiction in this Court of all suits

2
3 brought pursuant to 42 U.S.C. § 1983. Jurisdiction is

4
5 also conferred by 28 U.S.C. § 1331 because the claims

6
7
8 for relief derive from the United States Constitution

9
10 and the laws of the United States.

11
12
13 3. Because the acts and omissions complained of herein

14
15 occurred in the County of Spokane, and it is believed

16
17 that all living parties currently reside in the

18
19 County of Spokane (except for UNDERWOOD who is

20
21 believed to have moved to King County, Washington),

22
23
24 venue is proper in the District Court for the Eastern
25 District of Washington, at Spokane.
26

Parties

4. At all times relevant to this Complaint, Plaintiff

JODIANNE WAGNER resided in the County of Spokane,

Washington, maintaining a family as the mother of her
children.

5. At all times applicable herein, defendant, COUNTY OF

SPOKANE, was and is a public entity ("Spokane County"

or "County of Spokane").

6. Plaintiff is informed and believes and thereon alleges

that, at all times relevant herein, defendant, ANDRIA

UNDERWOOD, was an individual residing in the County of

Spokane and employed by the Washington Department of

COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. §1983 • COUNT 1 - UNWARRANTED ENTRY
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1
2 Health and Services, Children's Division, Spokane
3
4
5 County. She now works in Bellevue, WA for the
6
7 Washington State Department of Children, Youth and
8
9 Families. On information and belief, ANDRIA UNDERWOOD,
10
11 was a Social Service Specialist - Afterhours. As part
12
13 of her job duties she investigates allegations of
14
15 suspected child abuse and/or neglect. On information
16
17 and belief, ANDRIA UNDERWOOD, came out to the Wagner
18
19 family home on January 29, 2016 and without warrant
20
21 entered and searched the residence.
22
23

24
25 7. Plaintiff is informed and believes and thereon alleges
26

27 that, at all times relevant herein, defendant, LAURA
28 COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. §1983 • COUNT 1 - UNWARRANTED ENTRY
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1
2 GARR, is and was an individual residing in the County
3
4
5 of Spokane and employed by the Washington Department
6
7 of Health and Services, Children's Division, Spokane
8
9 County. On information and belief, LAURA GARR was a
10
11 Social Service Specialist - Afterhours. As part of
12
13
14 her job duties she investigates allegations of
15
16 suspected child abuse and/or neglect. On information
17
18 and belief, GARR, came out to the Wagner family home
19
20
21 on January 29, 2016 and without warrant entered and
22
23 searched the residence.
24

25
26 8. Plaintiff is informed and believes and thereon alleges

1 that, at all times relevant herein, defendants, DOES
2
3 1-3 inclusive were individuals residing in the
4
5 County of Spokane and employed by COUNTY OF SPOKANE as
6
7
8 Spokane County Sheriff's Officers. Plaintiff is
9
10 further informed and believes that DOES 1-3 were an
11
12
13 integral participant in the unwarranted entry and
14
15 search of Plaintiff's home on January 29, 2016, as
16
17
18 detailed further in the allegations below.¹
19

20
21 ¹ At the present time DOES 1-3 are unknown but named
22 defendants herein. It is anticipated that the true identities of
23

24 9. At all times applicable herein, defendant, COUNTY OF

25
26 SPOKANE was and is a public entity ("Spokane County").
27

10. Defendants DOES 1 through 3 are sued as
fictitious names, their true names and capacities
being unknown to Plaintiff. When ascertained,
Plaintiff will amend this Complaint by inserting
their true names and capacities. Plaintiff is
informed and believes and thereon alleges that
each of the fictitiously named Defendants is
responsible in some manner for the occurrences
herein alleged, and those Defendants proximately
caused, are responsible for and/or legally liable
for Plaintiff's damages as herein alleged. Each
reference in this complaint to "Defendant,"

1
2 "Defendants," or a specifically named Defendant
3
4 refers to and includes all Defendants sued under
5
6 fictitious names. On information and belief,
7
8
9 Plaintiff makes all allegations contained in this
10
11 Complaint against all Defendants,
12
13
14 including DOES 1 through 3.
15

16
17
18 ¹ Continued. ...DOES 1-3 will be ascertained through the
19 discovery process. At such time as DOES 1-3 are identified,
20 Plaintiff will seek leave of Court to amend this complaint to
21 identify DOES 1-3 by name.
22

23
24 11. Whenever in this Complaint reference is made to
25
26 any act of Defendants, such allegations shall be
27

1 deemed to mean all named Defendants and DOES 1
2
3 through 3, or their officers, agents, managers,
4
5 representatives, employees, heirs, assignees,
6
7
8 customers, tenants, who did or authorized such
9
10 acts while actively engaged in the operation,
11
12 management, direction or control of the
13
14 affairs of Defendants and while acting within the
15
16 course and scope of their duties, except as
17
18 specifically alleged to the contrary.
19
20
21

22 12. At all times herein mentioned and with respect to
23
24 the specific matters alleged in this Complaint,
25
26

27 Plaintiff is informed and believes that each
28 COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. §1983 • COUNT 1 - UNWARRANTED ENTRY
AND SEARCH CLAIM 2 - MONELL-RELATED CLAIMS • COUNT 1 AS TO COUNTY OF
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1
2 Defendant (including DOES 1 through 3), was a
3
4 parent, subsidiary, affiliate, alter ego,
5
6 partner, agent, franchisee, licensee, employee,
7
8 employer, controlling franchiser, controlling
9
10 licensor, principal, and/or joint venturer of
11
12 each of the remaining Defendants, and was at all
13
14 times acting within the course and scope of such
15
16 agency, service, employment, control and/or joint
17
18 venture, and each defendant has ratified, approved,
19
20 conspired in, profited from and/or authorized the acts
21
22 of each of the remaining Defendants and/or failed to
23
24
25
26
27

1 prevent such acts when having the power and/or duty to
2
3 do so, with full knowledge of said acts.
4

5
6 13. At all times mentioned herein, each of the above
7
8 identified defendants was an officer and/or agent
9
10 of the County of Spokane and/or the Washington
11
12 Department of Social and Health Services,
13
14 Children's Administration - as the case may be,
15
16 and was acting under color of law within the
17
18 course and scope of their respective duties in
19
20 doing the things and acts herein alleged.
21
22
23

24
25 **GENERAL ALLEGATIONS**
26

27 14. As of January 29, 2016 JODIANNE WAGNER, her
28 COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. §1983 • COUNT 1 - UNWARRANTED ENTRY
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1
2 husband, Jeffrey Wagner and her seven minor

3
4 children, M.W., M.E.W.³, L.W., J.W., M.J.W.³,
5

6
7
8 ³Because five siblings have the first two initials, the
9 younger childrens' designation includes their middle initial.
10

11 M.P.W. ³, M.A.W.³, constituted a family unit,
12

13
14 entitled to constitutional protections,
15

16 including, but not limited to, the right to live
17

18 together free of unwarranted governmental
19

20
21 interference, the right to familial privacy, and the
22

23 right of parents to reasonably direct the upbringing
24

25
26 of their children. In addition Plaintiff enjoyed a
27

1 separate and distinct right to live together without
2
3 undue governmental interference. M.W., 16 years old,
4
5 was residing outside the home at that time. Plaintiff
6
7
8 and her husband also had an adult child living in
9
10
11 California.

12
13 15. As of January 29, 2016, when Washington State
14
15 Department of Social and Health Services and
16
17 Spokane County Sheriff Department entered their
18
19
20 home M.E.W. was 14, L.W. was 13, J.W. was 10,
21
22 M.J.W. was 8, M.P.W. was 4 and M.A.W. was 2 years
23
24
25 old. Plaintiff had been adequately caring for her
26
27 children with her husband as a married mother for

1
2 many years and enjoyed a strong and loving bond
3
4 with her children. At this time, M.E.W., L.W.,
5
6 J.W., M.J.W., M.P.W. and M.A.W were happy and
7
8
9 healthy, well cared for, and not in need of
10
11
12 medical care or attention.
13

14 16. Plaintiff and Jeffrey are the biological parents of

15
16 M.W., M.E.W., L.W., J.W., M.J.W., M.P.W. and M.A.W.
17

18
19 Plaintiff and all of her minor children lived in the
20
21 Wagner's marital home in December 2015.
22

23 16. On December 3, 2015, M.W. engaged in a physical
24
25
26 fight with her younger smaller sister, L.W. The family
27

1 dog intervened, biting M.W. Plaintiff was at work and
2
3 Jeffrey Wagner was shopping. M.W. called 911. Spokane
4
5 County Sherriff officers responded to the home along
6
7
8 with paramedics and a SCRAPS (Spokane County Regional
9
10 Animal Protection) officer. Paramedics transported
11
12
13 M.W. to the Emergency Department where she received
14
15 10-12 stitches. Sheriff's officers and the SCRAPS
16
17 officer left the dog in the home with the children who
18
19 were home; L.W., J.W., M.J.W., M.P.W. and M.A.W. The
20
21
22 dog was never declared dangerous or potentially
23
24
25 dangerous by SCRAPS.
26

27 17. A paramedic reported the incident to Child
28 COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. §1983 • COUNT 1 - UNWARRANTED ENTRY
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Protective Services.

18. A Family Team Decision Meeting was called by child protective services and held on December 7, 2015. Child protective services threatened to seize all the children from the home and place them in foster care if the dog was not removed from the home. Child protective services also recommended that M.W. be placed outside the home. M.W. was pregnant and moved into a maternity home on December 8, 2015. Plaintiff was also pregnant - eight months along and her pregnancy was

1 discussed during the meeting. Social worker,

2
3 Debbie Wiechart, from L.W.'s school, Meadow Ridge

4
5 Elementary, attends the meeting.

6
7
8 19. Plaintiff's attorney sends notice of appearance
9
10 to child protective services December 7, 2015.

11
12
13 20. On December 21, 2015, a social worker from the
14
15 maternity home calls CPS investigator Tracey
16
17 Arnold and reports M.W. heard a child on the
18
19 phone speaking to the dog. Arnold calls the
20
21 Wagner's home phone and speaks to M.E.R. Arnold
22
23 then contacts the Plaintiff's attorney and is
24
25

26
27 told the dog is not in the home. Arnold is

1
2 reminded that all communication between CPS and

3
4 Plaintiff is to go through Plaintiff's attorney.

5
6
7 21. CPS closed the case as unfounded (no finding of

8
9 negligent treatment or maltreatment) on January

10
11 20, 2016. It was documented in the investigative

12
13 assessment at the closing of the case that the

14
15 social worker Tracey Arnold believed the dog was back

16
17 in the home. Multiple negative comments about the

18
19 large size of their family and the Wagner's Catholic

20
21 religion were made.

22
23
24 22. Arnold documents that on January 26, 2016 at 10:10
25 a.m. that a referent reported one of the boys attending Colbert

26 Elementary school told the "para and bus duty staff" that the
27 COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. §1983 • COUNT 1 - UNWARRANTED ENTRY
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1 family dog is back in the home and child made the disclosure on
2 January 15, 2016. Social worker had called referent back on
3 January 26, 2016 and left a voice mail stating this new
4 information would be noted but the case is already closed.
5 Social worker also notified referent that social worker
6 documented in last case at time of closure that the Department
7 believed the dog was back in the home.
8

9 23. Plaintiff scheduled an induction of labor to be
10 conducted on the morning of January 29, 2016. Her children were
11 well aware and arrangements were made for the two younger
12 children to stay with a long-time family friend who was also
13 their former day care provider. M.E.W. would watch the older
14 children after they rode the bus home from school so her husband
15 could join her in the hospital for labor.
16

17 24. At 2:22 p.m. on January 29, 2016, an intake is
18 received by CPS by a referrer from Meadow Ridge Elementary. The
19 referrer gives names and ages of the children and states the
20 Plaintiff is pregnant. The referrer states that in December 2015
21 the family's dog attacked M.W. and that there has been suspicion
22 that the dog was back in the home. Referrer states L.W. reports
23 that the dog is clumsy and will "suffocate her in her sleep"
24 because he is clumsy. The referrer had no additional concerns to
25 report. No allegations about inadequacy of food or sleeping
26
27 COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. §1983 • COUNT 1 - UNWARRANTED ENTRY
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1 arrangements for the children were made. Intake documents that
 2 School Resource Officer Chris Young was also present during the
 3 intake. He states that he called SCRAPS and spoke to Field
 4 Operations Manager Charles Brant. Charles said that CPS can
 5 request a "check on conditions" and SCRAPS will go to the home.
 6 If there is any evidence of an animal, SCRAPS can request a
 7 search warrant. Intake documented both Deputy Young and Charles
 8 Brant are available to assist social worker.

10 25. An intake decision was made by CPS to respond within
 11 24 hours. It was assigned to after-hours CPS workers to make the
 12 initial-face-to-face "IFF" with the children. No attempt is made
 13 to phone the Wagners at home. No attempt is made to contact
 14 SCRAPS. Defendants UNDERWOOD and GARR drive to the Wagner home
 15 at approximately 7 p.m. and wait at the end of their long
 16 private driveway in the dark. They called Crime Check, Spokane
 17 County's non-emergency law enforcement line, and waited for
 18 approximately an hour for Spokane County Sheriff's officers.

21 / / /

22 - *UNWARRANTED SEARCH #1: After hours CPS workers and*
 23 *Sheriff Officers Go to The Home, Bully Their Way In, and*
 24 *Search the Wagner Home and Interrogate M.E.W. Without*
 25 *Obtaining a Warrant*

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• COUNT 1 - UNWARRANTED ENTRY
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1 26. Six hours after CPS received an intake, at
2 approximately 8 p.m., on January 29, 2016, UNDERWOOD and GARR
3 visited the Plaintiff's home with Officers 1-3 of the Spokane
4 County Sheriff's Department.
5

6 27. M.E.W. responded to a knock on her parents' door. She
7 looked in the peep hole and saw a man standing in a baseball
8 cap, who she assumed was her father since he had called earlier
9 from the hospital and said he would be home soon to check on the
10 children.
11

12 28. UNDERWOOD and GARR and Sheriff's officers already
13 opened the screen door before M.E.W. opened the wooden door. Law
14 enforcement asked if Plaintiff was home and M.E.W. stated she
15 was not at home and she was babysitting and they needed to come
16 back later. The social workers stepped in first and then three
17 Sheriff officers stepped inside and walked to the hall-way,
18 forcing M.E.W. to step aside as they entered. Having no choice
19 in the matter, M.E.W. stood out of the way. At no point did they
20 ask M.E.W. permission to enter the home, search the home, or
21 interrogate her.
22

23 29. A Sherriff Officer asked M.E.W. where her parents
24 were. M.E.R. stated her parents were in the hospital having a
25 baby. UNDERWOOD or GARR responded stating "that's right she's
26
27

1 having her ninth baby today". UNDERWOOD or GARR laughed and said
2 "nine babies jeez!".

3 30. UNDERWOOD or GARR told M.E.W. to show her where the
4 children slept. Both UNDERWOOD and GARR looked inside all the
5 bedrooms on the top floor. They carried a clipboard and
6 interrogated M.E.W. throughout their approximately 25 minutes in
7 the house.
8

9 31. UNDERWOOD or GARR asked M.E.W. if they had food and to
10 show her where the food was to prove it for "their safety".
11 M.E.W. opened a cupboard in the kitchen. At no time did Officers
12 DOE 1-3 object to CPS workers' search or interrogation, or
13 attempt to intercede on M.E.W.'s behalf. Rather they appeared to
14 be standing by, at the ready, to provide physical and armed
15 support for whatever CPS workers had in mind.
16

17 32. UNDERWOOD and GARR and sheriff's officers left the
18 Wagner home.
19

20 33. Mr. Wagner calls home to inquire with M.E.W. how she
21 and the younger children are doing and is informed by her of the
22 upsetting events that just unfolded in the home. Mr. Wagner
23 informs Plaintiff who borrows a nurse's cell phone and calls her
24 attorney. Plaintiff's water had just been broken after laboring
25 all day. Plaintiff and Mr. Wagner are understandably very
26 upset.
27

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• COUNT 1 - UNWARRANTED ENTRY
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1 34. M.E.W., Mr. Wagner, Plaintiff and Plaintiff's attorney
2 do not understand why UNDERWOOD and GARR and sheriff's officers
3 were out at the house without contacting Plaintiff's attorney
4 first and especially since their CPS case had just closed.
5 Plaintiff's attorney advises Mr. Wagner to go home to be with
6 the children and leave Plaintiff in the hospital to labor.
7 Plaintiff later convinces Mr. Wagner to return to the hospital
8 and M.E.R. is instructed not to open the door to anyone.
9 Plaintiff's labor is prolonged, lasting over 24 hours and she is
10 unable to sleep from the emotional distress and outrage over
11 having her home invaded. Plaintiff's epidural anesthesia is shut
12 off in an attempt to shorten her labor and her obstetrician has
13 to manually dilate her cervix. Plaintiff gives birth
14 approximately 12 hours after learning her home was invaded.
15

16
17 35. Mr. Wagner returns home on January 30, 2016 to be with
18 the children after his newborn son and Plaintiff are stable. He
19 comes back to the hospital later that day and while he is gone
20 CPS workers again come to the house and speak to M.E.W. They did
21 not bring law enforcement with them.
22

23 36. Mr. Wagner stays at home the night of January 30, 2016
24 and returns on January 31, 2016 to take Plaintiff and their
25 newborn home. Again, while he was away from CPS workers come to
26

1 the house and speak to M.E.W. They do not bring law enforcement
2 with them.

3 37. On February 1, 2016 CPS worker Arnold and another CPS
4 worker come to the Wagner home. They do not bring law
5 enforcement with them. Mr. Wagner greets them in the driveway
6 telling them to leave and reminds them that all communication is
7 to go through Plaintiff's attorney.
8

9 38. Despite having no specific, reasonable, or articulable
10 evidence that M.E.W., L.W., J.W., M.J.W., M.P.W., M.A.W. were in
11 imminent danger of sustaining serious bodily injury or death
12 within the short amount of time it would have taken to obtain a
13 warrant, CPS workers entered and searched the Wagner home on
14 January 29, 2016 and interrogated M.E.W. without parental
15 permission. Plaintiff is further informed and believes and
16 thereon alleges that DOES 1-3 of the Spokane County Sheriff
17 Department jointly acted with, collaborated with, or otherwise
18 aided, assisted Defendants CPS workers UNDERWOOD and GARR in the
19 unwarranted entry and entry of the Wagner home and interrogation
20 of seizure of M.E.W. and Officer DOES 1-3 directly participated
21 in the search, by knowing and agreeing, authorizing, ratifying,
22 sanctioning, carrying out, or taking charge of a plan to search
23 the home to such an extent that they were an integral
24 participant in the unwarranted entry and search. Alternatively,
25
26

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DOES 1-3 failed to intercede to prevent the violation of Plaintiffs' rights by preventing UNDERWOOD and GARR from entering and searching the home and interrogating M.E.W. as they witnessed the events unfolding.

39. Defendants UNDERWOOD and GARR and DOES 1-3 did not present Plaintiff or M.E.W. with a court order or warrant, authorizing the search of the Wagner home or interrogation of M.E.R. without parental consent, (because they did not have such an order); moreover Defendants did not articulate any reasonable basis for believing that M.E.W., L.W., J.W., M.J.W., M.P.W., M.A.W. would suffer great bodily injury or death if the Defendants, took the minimal amount of time necessary to seek a court order or warrant. No exigent circumstances existed at the time of the search.

40. Said non-consensual and unwarranted search or the Wagner home and interrogation of M.E.W was unlawful and in violation of Plaintiff's Due Process rights, familial association rights, liberty interests, and familial privacy, arising under and guaranteed by the First, Fourth, and Fourteenth Amendments of the United States Constitution, as well as under the Washington State Constitution.

/ / /

/ / /

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• COUNT 1 - UNWARRANTED ENTRY
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FIRST CLAIM FOR RELIEF

COUNT 1

For Violation of Civil Rights (42 U.S.C. §1983)

(Procedural Due Process, Unlawful Seizure, Invasion of Privacy,

and

Interruption of Familial Association/Failure to Intercede)

By PLAINTIFF

Against Defendants, ANDRIA UNDERWOOD, LAURA GARR,

DOES 1 through 3, inclusive

41. Plaintiff realleges, and incorporates herein as if set forth in full, paragraphs 1 through 40 above.

42. Plaintiff is an individual and citizen of the United States, protected by 42 U.S.C. § 1983, et seq.

43. At all times relevant herein, the right to familial association guaranteed under the First and Fourteenth Amendments to the United States Constitution was "clearly established" such that any reasonable social services agent and/or police officer in Defendants' situation would know it is unlawful to question, threaten, examine, or search a child
COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. §1983 • COUNT 1 - UNWARRANTED ENTRY
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1 or home in the absence of exigent circumstances without first
2 obtaining a warrant to do so. Furthermore, any such reasonable
3 social worker and/or police officer would know that to do so
4 would constitute a violation of the parents', and children's,
5 well-elaborated constitutional right to live together without
6 governmental interference - which rights are protected under the
7 First and Fourteenth Amendments to the United States
8 Constitution.
9

10 44. Defendants, and each of them, had, at all times
11 relevant herein, an
12 affirmative duty and obligation to recognize, acknowledge, and
13 respect the
14 Plaintiff's rights, and to conduct themselves in a manner that
15 confirms, provides
16 for the preservation of, and does not violate the rights
17 guaranteed Plaintiff under
18 the United States Constitution, including, without limitation,
19 the protection of
20 parental rights, the right to privacy, family integrity and the
21 right to familial
22 relations.
23
24
25

26 45. Defendants, and each of them, were acting under color
27 of state law

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• COUNT 1 - UNWARRANTED ENTRY
• COUNT 1 AS TO COUNTY OF

1 when they jointly acted, or knew and agreed and thereby
2 conspired, to violate
3 Plaintiffs' constitutional rights by, entering and searching the
4 Wagner home, and interrogating M.E.W., without proper or just
5 cause and/or authority, in the absence of any exigency, and
6 without first obtaining a warrant or other court order - thereby
7 violating Plaintiff's rights under the First and Fourteenth
8 Amendments to the United States Constitution.
9

10 46. None of the Defendants sought, or obtained, a warrant
11 prior to searching Plaintiff's home or interrogating her child,
12 M.E.W. on January 29, 2016, at the family home. Defendants
13 jointly acted or conspired to search the home, as described
14 above, knowing that no warrant for the home's search was issued
15 and that exigent circumstances did not exist. Plaintiff did not
16 consent, at any time, to the searches described herein above,
17 nor did her husband.
18

19 47. At no time ever did any of the Defendants have any
20 specific,
21 articulable evidence to support any reasonable basis to believe
22 that any of
23 Plaintiff's six children were in immediate danger of sustaining
24 serious bodily
25

1 injury or death within the time it would have taken the
2 Defendants to seek and
3 obtain a warrant. Indeed, Plaintiff is informed and believes and
4 thereon
5 alleges that Defendants, and each of them, purposefully or
6 recklessly failed to seek
7 a warrant, in derogation of Plaintiffs' clearly established
8 rights to due process and familial association.
9

10 48. At the time of search, other more reasonable and less
11 intrusive alternative means existed to secure Plaintiffs' civil
12 rights and security, short of the
13 warrantless search of the home and interrogation of M.E.W. , yet
14 these defendants, and each of them, intentionally, or with a
15 reckless, wanton, or malicious disregard for Plaintiff's rights,
16 failed to pursue or investigate such less intrusive alternative
17 means.
18

19 49. With respect to DOES 1-3, through their extensive
20 training as police officers, on information and belief, were
21 aware of the aforementioned
22 constitutional rights of parents and children to live together
23 without government
24 interference including to be free of unwarranted searches. On
25 information and belief, he was equally aware through his
26

27 COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. §1983 • COUNT 1 - UNWARRANTED ENTRY
28 AND SEARCH CLAIM 2 - MONELL-RELATED CLAIMS • COUNT 1 AS TO COUNTY OF
SPOKANE - 30

1 training and experience that he had an affirmative obligation to
2 intercede and intervene to protect the rights of citizens, like
3 Plaintiff, when he witnessed her constitutional rights being
4 violated. Not only did they stand by and fail to intercede and
5 intervene on Plaintiff's behalf - he went so far as to provide
6 agreement, concurrence, and armed support for CPS workers 1 and
7 2 when they decided to search Plaintiff's home and interrogate
8 her child
9 without a warrant and in the absence of any exigency.
10

11
12 50. No reasonable officer in DOES 1-3's positions could
13 have believed that their conduct, agreeing to and supporting the
14 warrantless search of Plaintiff's home and interrogation of her
15 child under the circumstances then presented, was lawful.
16

17 51. Defendants committed said unconstitutional acts
18 without proper justification or authority, and without probable
19 cause, exigency, or court order. Defendants, and each of them,
20 maliciously violated and/or conspired to violate the
21 civil rights of Plaintiffs, including violation of Plaintiff's
22 rights found in the Fourteenth Amendment of the United States
23 Constitution, by, but not limited to,
24 entering and searching Plaintiff's home and interrogating her
25 child, without proper or just cause and/or authority, and by use
26

1 of coercion, duress, or fraud to obtain, or attempt to obtain,
2 evidence. Said acts were taken deliberately, with callous or
3 reckless indifference to the substantial rights of Plaintiff, or
4 fueled by an evil motive or intent.
5

6
7 52. As a direct and proximate result of these Defendants'
8 misconduct, Plaintiff has suffered, and will continue to suffer,
9 general and special damages
10 according to proof at trial, including but not limited to,
11 physical and/or mental
12 anxiety and anguish, among other things.
13

14 53. Due to the malicious, wanton, callous, reckless,
15 wrongful and
16 despicable nature of the Defendants' misconduct, as herein
17 alleged and described,
18 Plaintiff is entitled to recover punitive damages against the
19 individual Defendants,
20 and each of them, in accordance with law and subject to proof at
21 trial.
22
23
24
25
26
27

SECOND CLAIM FOR RELIEF

Count 1

(Monell-Related Claims)

By Plaintiff

Against COUNTY OF SPOKANE

54. Plaintiff realleges, and incorporates herein as if set forth in full, paragraphs 1 through 53, inclusive.

55. Defendant County of Spokane, including through its child welfare services agency, is a "person" within the meaning of 42 U.S.C. § 1983 and subject to Monell liability. *Monell v. Dept. of Social Services* (1978) 436 U.S. 658.

Defendants, and each of them, acted under color of state law when committing the acts alleged herein, in violation of Plaintiff's rights.

56. Defendant County of Spokane, including through its entity CPS and Sheriff's Department those individuals in their

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1 official capacity who had supervisory and/or policy making
 2 authority, had a duty to Plaintiff all times to establish,
 3 implement and follow policies, procedures, customs and/or
 4 practices (hereinafter referred to as "policy" or "policies")
 5 which confirm and provide the protections guaranteed Plaintiff
 6 under the United States Constitution, including those under the
 7 First, Fourth and Fourteenth Amendments, to include without
 8 limitation, the protection of the right to familial relations;
 9 the right to privacy; the right not to be defamed or
 10 stigmatized; the right to be free of governmental deception, and
 11 the right to procedural due process. Said defendants also had a
 12 duty to use reasonable care to select, assign, supervise, train,
 13 control and review the activities of all their agents, officers,
 14 employees and those acting under them, including within CPS and
 15 the Sheriff's Department, so as to protect these constitutional
 16 rights; and to refrain from acting with deliberate indifference
 17 to the constitutional rights of Plaintiff in order to avoid
 18 causing the injuries and damages alleged herein.

22 57. Moreover, based on the duties charged to Defendant
 23 County of Spokane, including the powers to seize children from
 24 their parents' care, the
 25 County of Spokane, and its policymaking officials, knew or
 26 should have known of

27 COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. §1983
 28 AND SEARCH CLAIM 2 - MONELL-RELATED CLAIMS
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1 the need to establish customs, policies, and practices required
2 to protect the
3 aforementioned civil rights of parents and their children with
4 whom their CPS
5 agents and Sheriff's officers regularly came into contact.

6
7 58. Defendant County of Spokane established, adopted,
8 followed, and/or
9 implemented and/or turned a blind eye to customs, and/or
10 practices which were
11 followed, complied with, and carried out by UNDERWOOD and GARR
12 when
13 Plaintiff's constitutional rights were violated by and/or
14 through the search of the Wagner home and interrogation of
15 M.E.W., without a warrant or other court order in the absence of
16 any exigency or parental consent. At the time of the underlying
17 events, the regularly established customs and practices of the
18 County of Spokane's CPS agency and Sheriff's Department that
19 were followed, adhered to, complied with, and carried out by
20 Defendants, were the moving force, that is, the actual, direct,
21 and proximate cause of the violations of Plaintiff's
22 constitutional rights include, but are not limited to:
23
24
25
26
27

1 a. the custom and/or practice of entering and searching a
2 home without exigent circumstances (imminent danger of
3 serious bodily injury), court order and/or consent;

4 b. the custom, and/or practice of interrogating and/or
5 examining a child
6

7 outside the presence of its parent(s) - without
8 judicial authorization

9 or parental consent - when there is no specific,
10 reasonable, and

11 articulable evidence that the child is in immediate
12 risk of suffering

13 serious bodily injury;

14 c. The unwritten policy of acting with deliberate
15 indifference to the
16

17 rights of children and parents with whom CPS agents
18 and Sheriff's officers can regularly be expected to
19 come into contact by *failing* and/or *refusing* to
20 implement a practice of regular and adequate training
21 and/or supervision, and/or by failing to train and/or
22 supervise its officers, agents, employees and state
23 actors, in providing and ensuring compliance with the
24 constitutional protections guaranteed to
25
26
27

1 individuals, including those under the First, Fourth
 2 and Fourteenth Amendments, when performing actions
 3 related to child abuse and neglect investigations.
 4

5 d. The consistent failure by the County of Spokane to
 6 investigate

7 violations of constitutional rights by CPS workers and
 8 Sheriff's Officers, and consistent failure to
 9 discipline CPS workers and Sheriff's Officers and
 10 their supervisors involved in constitutional
 11 violations so that violations of citizen's
 12 constitutional
 13

14 rights were not only accepted, but were customary;

15 (This list is not exhaustive due to the pending nature of
 16 discovery and the
 17 privileged and protected records of investigative and juvenile
 18 dependency type
 19 proceedings. Plaintiff may seek leave to amend this pleading as
 20 more information becomes available.)
 21

22 59. On information and belief, County of Spokane CPS and
 23 Sheriff's Department has engaged in each of the customs and/or
 24 practices identified above on an ongoing and continuous basis at
 25 least since 2013, if not earlier, and continues to engage in
 26 said practices on an ongoing and daily basis.
 27

28 COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. §1983 • COUNT 1 - UNWARRANTED ENTRY
 AND SEARCH CLAIM 2 - MONELL-RELATED CLAIMS • COUNT 1 AS TO COUNTY OF
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1 60. The County of Spokane is aware that its CPS workers
2 and Sheriff's Officers, (1) search homes and interrogate
3 children without first obtaining judicial authorization when
4 there is no emergency circumstance and in contravention of the
5 rights of both parents and children. Yet, the County of Spokane
6 has made a knowing and conscious decision to refrain from
7 promulgating a policy to prevent such misconduct, and has
8 consistently and knowingly failed to provide any training to its
9 social workers to inform them of the rights of parents and
10 children to remain together absent undue government
11 interference, the obligation of the officers to first obtain a
12 warrant before searching homes when no exigency exists. The
13 County of Spokane's decision to disregard these constitutional
14 protections in the face of a known need for such policies to
15 prevent the specific misconduct alleged herein above, i.e. the
16 known need for a specific policy prohibiting its social workers
17 from searching homes without a warrant or emergency, is itself a
18 'policy' decision which constitutes a policy of deliberate
19 indifference. Said policy of deliberate indifference, and the
20 lack of prophylactic policies and training in the face of a
21 known need for such policies and training was a substantial
22 factor in causing the Plaintiff's harm, in that the County CPS
23 Worker and Sheriff's Officer's Defendants both followed and
24 COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. §1983 • COUNT 1 - UNWARRANTED ENTRY
25 AND SEARCH CLAIM 2 - MONELL-RELATED CLAIMS • COUNT 1 AS TO COUNTY OF
26 SPOKANE - 38

1 acted pursuant to the regularly established customs, practices,
 2 and well known and accepted standard operating procedures when
 3 they entered and searched the Wagner home and interrogated
 4 M.E.W., without judicial authorization, parental consent, and
 5 without specific, reasonable, and articulable evidence to
 6 suggest that the children were in immediate risk of suffering
 7 serious bodily injury - none of which was constitutionally
 8 permissible, all of which would never have happened if they
 9 County of Spokane had refrained from deliberately ignoring its
 10 obligation to promulgate policies and the concomitant training
 11 necessary to inform its CPS workers and Sheriff's Officers of
 12 the constitutional proscriptions which govern their daily work.

15 61. Plaintiff is informed and believes, that Defendant
 16 County of Spokane
 17 failed to establish, adopt, and/or implement policies,
 18 procedures, and training
 19 regarding the constitutional protections afforded to a parent
 20 and child by the First
 21 and Fourteenth Amendments. Without such policies, procedures,
 22 customs, and/or
 23 practices in place, the County of Spokane Social Workers and
 24 Sherriff's Officers were allowed and permitted to engage in
 25 conduct that was in violation of Plaintiff's constitutional
 26 COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. §1983 • COUNT 1 - UNWARRANTED ENTRY
 27 AND SEARCH CLAIM 2 - MONELL-RELATED CLAIMS • COUNT 1 AS TO COUNTY OF
 28 SPOKANE - 39

1 rights as more specifically alleged in the General Allegations
2 set out herein above. On information and belief, the Defendant
3 County's failure to adopt such policies was the moving force
4 behind the violations of Plaintiff's constitutional rights and
5 includes, but is not limited to:
6

7 a. The County of Spokane had no written policy,
8 procedure,

9 custom, practice and/or training regarding the
10 circumstances
11

12 under which a county social worker or Sherriff's
13 officer must obtain judicial authorization prior to
14 entering and searching a home;
15

16 b. The County of Spokane had no written policy,
17 procedure,
18

19 custom, practice and/or training delineating the
20 constitutional
21

22 protections afforded to a parent and child by the
23 First, Fourth and
24

25 Fourteenth Amendments;
26

27 c. The County of Spokane had no written policy,
28 procedure,
29

1 custom, practice and/or training instructing that a
2 county social

3 worker must obtain judicial authorization or parental
4 consent

5 prior to interviewing, examining, and/or interrogating
6 a child -

7 outside the presence of its parent(s) - when there is
8 no specific

9 articulable evidence that the child is in immediate
10 risk of

11 suffering serious bodily injury;

12 By deliberately refraining from promulgating any of the
13
14
15 aforementioned

16 policies, procedures, customs, practices and/or training, the
17 County of Spokane

18 permitted the aforementioned basic policy decisions to be made
19 by the lower level

20 CPS workers and Sherriff's officers. As a result, the County of
21 Spokane's policy, custom, and/or practice - as established,
22 adopted, and implemented by the CPS Worker and Sherriff's
23 Officers Defendants - was to search a home and interrogate a
24 child without judicial authorization, parental consent, and

25 without specific, reasonable, and articulable evidence to

26
27 COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. §1983 • COUNT 1 - UNWARRANTED ENTRY
28 AND SEARCH CLAIM 2 - MONELL-RELATED CLAIMS • COUNT 1 AS TO COUNTY OF
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1 suggest that the child is in immediate risk of suffering serious
2 bodily injury - that disregards the Plaintiff's constitutional
3 protections - was a substantial factor in causing harm to the
4 Plaintiff. Thus, as a matter of law, because there was not
5 formal policy preventing the aforementioned misconduct, even
6 though one was obviously needed, the officers on the line acted
7 on behalf of the County in making final policy decisions - which
8 is exactly what they entered and searched the Plaintiff's home
9 and interrogated her child without a warrant and in the absence
10 of any exigency.
11

12
13 62. Moreover, based on the duties charged to Spokane
14 County, including the police powers to lawfully search and seize
15 persons, Spokane County and its
16 policymaking officials, knew or should have known of the need to
17 establish
18 customs, policies, and practices required to protect the
19 aforementioned civil rights
20 of parents and their children.
21

22 63. Defendant Spokane County, including through its police
23 department,
24 established and/or followed procedures, customs, and/or
25 practices which were the
26

1 moving force behind the violations of Plaintiff's constitutional
2 rights, including
3 those under the Fourth and Fourteenth Amendments, by, but not
4 limited to the
5 following policies, practices, customs and/or procedures:
6

7 a. the policy of assisting municipalities, through
8 providing armed
9 officers, of searching homes and interrogating
10 children without exigent circumstances (imminent
11 danger of serious physical injury), court order and/or
12 parental consent;
13

14 b. the policy of acquiescing in and reinforcing threats
15 by social

16 workers if they and the social workers are not
17 permitted to

18 enter the home;

19 c. by acting with deliberate indifference in implementing
20 a policy

21 of inadequate training, and/or by failing to train its
22 officers,
23

24 agents, employees and state actors, in providing the
25 constitutional protections guaranteed to individuals,
26

27 including

28 COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. §1983
AND SEARCH CLAIM 2 - MONELL-RELATED CLAIMS
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• COUNT 1 - UNWARRANTED ENTRY
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1 those under the Fourth and Fourteenth Amendments, when
2 performing actions related to child abuse/neglect and
3 dependency type

4 proceedings;

5
6 e. by acting with deliberate indifference in implementing
7 a policy

8 of inadequate supervision, and/or by failing to
9 adequately

10 supervise its officers, agents, employees and state
11 actors, in

12 providing the constitutional protections guaranteed to
13 individuals, including those under the Fourth and

14
15 Fourteenth

16 Amendments, when performing actions related to child
17 abuse/neglect

18 and dependency type proceedings.

19
20 f. The policy of failing to train and supervise its
21 officers, agents and employees in their duties and
22 obligations to intercede when an agent of another
23 public entity is violating the Constitutional rights
24 of families during an entry and search of home and
25 interrogation of children and to prevent such
26 violations.
27

1 g. the consistent failure by the Spokane County to
2 investigate violations of constitutional rights by
3 police officers, and consistent failure to discipline
4 police officers and their supervisors involved in
5 constitutional violations so that violations of the
6 type alleged here, were not only accepted but were
7 customary;
8

9
10 (This list is not exhaustive due to the pending nature of
11 discovery. Plaintiff reserves her right to amend this pleading
12 as more information becomes available);
13

14
15 64. Spokane County is aware that its officers regularly
16 search homes, or

17 participate in the interrogation of children without
18 first obtaining a warrant or parental consent when
19 there is no emergency circumstance and in
20 contravention of the rights of both parents and
21 children. Yet, on information and belief, Spokane
22 County has made a conscious decision to refrain from
23 promulgating a policy to prevent such misconduct, and
24 has knowingly failed to provide any training to its
25
26
27

1 officers to inform them of the rights of parents and
2 children to remain together absent undue government
3 interference, and/or the obligation of the officers to
4 first obtain a warrant before searching homes and
5 interrogating children without parental consent when
6 no exigency
7 exists. Spokane County's decision to disregard these
8 constitutional protections in the face of a known need
9 for policies to prevent the specific misconduct
10 alleged herein above, i.e. the known need for a
11 specific policy prohibiting its officers from
12 searching homes and interrogating without parental
13 consent and without a warrant or emergency, is itself
14 a 'policy' decision which constitutes a policy of
15 deliberate indifference. Said policy of deliberate
16 indifference, and the lack of prophylactic policies
17 and training in the face of a known need for such
18 policies and training was a substantial factor in
19 causing the Plaintiff's harm, in that Spokane County
20 Sheriff's Officer Defendants
21 followed and acted pursuant to the regularly
22 established customs, practices, and well known and
23 accepted standard operating procedures when he seized,

1 and/or participated in the search of, Plaintiff's Home
2 and interrogation of Plaintiff's child, without
3 judicial authorization,
4 parental consent, and without specific, reasonable,
5 and articulable evidence to suggest that the children
6 were in immediate risk of suffering serious bodily
7 injury - none of which was constitutionally
8 permissible, and all of which would never have
9 happened if Spokane County had refrained from
10 deliberately ignoring its obligation
11 to promulgate policies and the concomitant training
12 necessary to inform its officers of the constitutional
13 proscriptions which govern their daily work.
14

15
16 65. In, and prior to 2016, Defendant Spokane County failed
17 to establish,

18
19 adopt, and/or implement policies, procedures, and
20 training regarding the constitutional protections
21 afforded to a parent and child by the First and
22 Fourteenth Amendments. Without such policies,
23 procedures, customs, and/or practices in place,
24 Spokane County Sheriff's Officer Defendants were
25 allowed and permitted to engage in conduct that was in
26 violation of Plaintiff's constitutional rights as more

specifically alleged in the General Allegations set out hereinabove. The Defendant Spokane County's failure to adopt such policies was the moving force behind the violations of Plaintiff's constitutional rights and includes, but is not limited to:

a. Plaintiff is informed and believes that, in 2016, Spokane County had no written policy, procedure, custom, practice and/or training regarding the circumstances under which a county sheriff's officer must obtain judicial authorization prior to searching a home and/or interrogating a child without parental consent;

b. Plaintiff is informed and believes that, in 2016, Spokane County had no written policy, procedure, custom, practice and/or training requiring a city police officer to obtain judicial authorization prior to searching a home and/or interrogating a child without parental consent, when there was no evidence that the child was in immediate risk of suffering serious bodily injury;

c. Plaintiff is informed and believes that, in 2016, Spokane County had no written policy, procedure,

- 1 custom, practice and/or training delineating the
2 constitutional protections afforded to a parent
3 and child by the First and Fourteenth Amendments;
4
5 d. Plaintiff is informed and believes that, in 2016,
6 Spokane County had no written policy, procedure,
7 custom, practice and/or training instructing that
8 a county sheriff's officer must obtain judicial
9 authorization or parental consent prior to
10 interviewing, examining, and/or interrogating a
11 child - outside the presence of its parent(s) -
12 when there is no specific articulable evidence
13 that the child is in immediate risk of suffering
14 serious bodily injury;
15
16 e. Plaintiff is informed and believes that, in 2016,
17 Spokane County had no written policy, procedure,
18 custom, practice and/or training instructing that
19 a city police officer must intervene, and/or
20 prevent, constitutional deprivations being
21 perpetrated by another government official.
22

23 66. By deliberately refraining from promulgating any of
24 the aforementioned policies, procedures, customs, practices
25 and/or training in 2016,
26
27

1 Spokane County permitted the aforementioned basic policy
2 decisions to be made by the lower level police officers. As a
3 result, Spokane County's policy, custom, and/or practice - as
4 established, adopted, and implemented by the Sheriff's Officers
5 Defendants in 2016 - was to search a home and interrogate a
6 child without judicial
7 authorization, parental consent, and without specific,
8 reasonable, and articulable
9 evidence to suggest that the child is in immediate risk of
10 suffering serious bodily
11 injury, and/or fail to intervene, and/or prevent, constitutional
12 deprivations being
13 perpetrated by another government official. These policies,
14 customs, and/or
15 practices - that disregards the Plaintiff's constitutional
16 protections - was a
17 substantial factor in causing harm to the Plaintiff. Thus, as a
18 matter of law, because
19 there was not formal policy preventing the aforementioned
20 misconduct, even
21 though one was obviously needed, the officers on the line acted
22 on behalf of the

1 City in making final policy decisions - which is exactly what
2 they did when they
3 seized, and/or failed to prevent, the Plaintiff's children
4 without a warrant and in the
5 absence of any exigency.
6

7 67. The state of the law regarding the constitutional
8 protections afforded
9 to a parent and child by the First and Fourteenth Amendments was
10 clearly
11 established well before 2016. As such, Spokane County knew
12 before 2016 that its
13 sheriff's officers required training on the constitutional
14 protections afforded to a
15 parent and child. Despite this knowledge, Plaintiff is informed
16 and believes that,
17
18 Spokane County deliberately failed to train its sheriff's
19 officers on these
20 constitutional protections, including, but not limited to, the
21 following:
22

23 a. In 2016, and prior, Spokane County did not
24 provide training to
25

26 its sheriff's officers regarding the

27 circumstances under which judicial authorization

28 COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. §1983
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1 must be obtained prior to entering and searching
2 a home without parental consent;

3 b. In 2016, and prior, Spokane County did not
4 provide training to

5 its sheriff's officers regarding the fact that
6 judicial
7

8 authorization must be obtained prior to entering
9 and searching a home without parental consent,
10 when there was no evidence that the child was in
11 immediate risk of suffering serious bodily
12 injury;
13

14 c. In 2016, and prior, Spokane County did not
15 provide training to

16 its sheriff's officers regarding the fact that
17 judicial authorization or parental consent is
18 required prior to interviewing, examining, and/or
19 interrogating a child - outside the presence of
20 its parent(s) - when there is no specific
21 articulable evidence that the child is in
22 immediate risk of suffering serious bodily
23 injury;
24

25 d. In 2016, and prior, Spokane County did not
26 provide training to
27

1 its sheriff's officers on the well-established
2 constitutional
3 protections afforded to a parent and child by the
4 First and Fourteenth Amendments;
5

6 e. In 2016, and prior, Spokane County did not
7 provide training to

8 its sheriff's officers instructing that a
9 sheriff's officer must
10 intervene, and/or prevent, constitutional
11 deprivations being
12 perpetrated by another government official.

13
14 68. In 2016, and prior, Spokane County's deliberate
15 failure to train its sheriff's officers on these established
16 constitutional protections was a substantial
17 factor in causing the Plaintiff's harm, in that the Sheriff's
18 Officers Defendants were unfamiliar with and oblivious to the
19 Plaintiff's constitutional rights
20 - and their attendant obligation to protect and defend those
21 rights, when the Sheriff's Officers Defendants participated in
22 the entry and search of Plaintiff's home, and interrogation of
23 Plaintiff's child and/or failed to intervene, and/or prevent the
24 search of, Plaintiff's home and interrogation of Plaintiff's
25 search of, Plaintiff's home and interrogation of Plaintiff's
26
27

1 child without judicial authorization, parental consent, and in
2 the absence of exigent circumstances.

3 69. Plaintiff is informed and believes that, Spokane
4 County failed to
5 investigate the Sheriff's Officers Defendants' entry and search
6 of, participation in the entry and search of, and/or failed to
7 intervene, and/or prevent the search of, Plaintiff's home and
8 interrogation of her child without judicial authorization,
9 parental consent, and without specific, reasonable, and
10 articulable evidence to suggest that the child is in immediate
11 risk of suffering serious bodily injury. Plaintiff is further
12 informed and believes that, Spokane County never investigates a
13 sheriff's officer for such conduct.

14 70. Plaintiff is informed and believes that, Spokane
15 County failed to
16 discipline the Sheriff's Officers Defendants for the entry and
17 search of, participation in the entry and search of, and/or
18 failed to intervene, and/or prevent the entry and search of,
19 Plaintiff's home and interrogation of her child without judicial
20 authorization, parental consent, and without specific,
21 reasonable, and articulable evidence to suggest that the child
22 is in immediate risk of suffering serious bodily injury.
23
24
25
26
27

1 Plaintiff is further informed and believes that, Spokane County
2 never disciplines a police officer for such conduct.

3 71. Plaintiff is informed and believes that Sheriff's
4 Officers Defendants'
5 search of, participation in the entry and search of, and/or
6 failed to intervene, and/or prevent the search of homes, and
7 interrogation of children without parental consent and without
8 judicial authorization and in the absence of exigent
9 circumstances, was not an isolated incident. On the contrary,
10 such warrantless and unlawful entries and searches are regular
11 and recurring when Spokane County Sheriff's Department is called
12 upon by CPS social workers to assist them.
13

14 72. Spokane County breached its duties and obligations to
15 Plaintiff by,
16 including but not limited to, failing to establish, implement
17 and follow the correct
18 and proper Constitutional policies, procedures, customs and
19 practices; by failing to properly select, supervise, train,
20 control their officers, agents and employees as to
21 their compliance with Constitutional safeguards with deliberate
22 indifference; and
23
24
25
26
27

1 by knowingly, or with deliberate indifference, permitting the
 2 DEFENDANTS to engage in the unlawful and unconstitutional
 3 conduct as herein alleged.

4 73. Spokane County knew, or should have known, that by
 5 breaching the above-mentioned duties and obligations
 6 that it was foreseeable that they would, and did,
 7 cause Plaintiff to be injured and damaged by their
 8 wrongful policies and acts as alleged herein, and that
 9 such breaches occurred in contravention of public
 10 policy and their legal duties and obligations to
 11 Plaintiff; and that such policies, practices, customs
 12 and procedures were the moving force behind the
 13 constitutional violations alleged herein above.

14 74. The state of the law regarding the constitutional
 15 protections afforded to a parent and child by the
 16 First, Fourth and Fourteenth Amendments was clearly
 17 established well before 2016. As such, the County of
 18 Spokane knew before 2016 that its county CPS workers
 19 and Sherriff's officers required training on the
 20 constitutional protections afforded to a parent and
 21 child. On information and belief, despite this
 22 knowledge, the County of Spokane deliberately failed
 23 to train its county social workers and sheriff's

24 to train its county social workers and sheriff's
 25 COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. §1983 • COUNT 1 - UNWARRANTED ENTRY
 26 AND SEARCH CLAIM 2 - MONELL-RELATED CLAIMS • COUNT 1 AS TO COUNTY OF
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 28

1 officers on these constitutional protections,
2 including, but not limited to, the following:

- 3 a. The County of Spokane did not provide training to its
4 county CPS workers and sheriff's officers regarding
5 the circumstances under which judicial authorization
6 must be obtained prior to entering and searching a
7 home;
8
- 9 b. The County of Spokane did not provide training to its
10 county CPS workers and sheriff's officers regarding
11 the fact that judicial authorization or parental
12 consent is required prior to interviewing, examining,
13 and/or interrogating a child - outside the presence of
14 its parent(s) - when there is no specific articulable
15 evidence that the child is in immediate risk of
16 suffering serious bodily injury;
17
- 18 c. The County of Spokane did not provide training to its
19 county CPS workers and sheriff's officers on the well-
20 established constitutional protections afforded to a
21 parent and child by the First, Fourth and Fourteenth
22 Amendments.
23

24 The County of Spokane's deliberate failure to train its CPS
25 workers and sheriff's officers on these established
26 constitutional protections was a substantial factor in causing
27 COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. §1983 • COUNT 1 - UNWARRANTED ENTRY
28 AND SEARCH CLAIM 2 - MONELL-RELATED CLAIMS • COUNT 1 AS TO COUNTY OF
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1 the Plaintiff's harm, in that CPS agents and sheriff's officers
 2 working for the County of Spokane were unfamiliar with and
 3 oblivious to the Plaintiff's constitutional rights, when the CPS
 4 Worker and Sheriff's Officer Defendants entered and searched
 5 Plaintiff's home and interrogated her child, without judicial
 6 authorization, parental consent, and in the absence of exigent
 7 circumstances.
 8

9 75. Plaintiff is informed and believes that, the County of
 10 Spokane failed to investigate the CPS Worker and Sheriff's
 11 Officer Defendants' entry and search of Plaintiff's home and
 12 interrogation of her child children without judicial
 13 authorization, parental consent, and without specific,
 14 reasonable, and articulable evidence to suggest that the child
 15 is in immediate risk of suffering serious bodily injury, as set
 16 forth in the general allegations. Plaintiff is further informed
 17 and believes that, the County of Spokane never investigates a
 18 CPS worker or sheriff's officer who enters and searches a home
 19 and interrogates a child without judicial authorization,
 20 parental consent, and without specific, reasonable, and
 21 articulable evidence to suggest that the child is in immediate
 22 risk of suffering serious bodily injury.
 23
 24
 25

26 76. Plaintiff is informed and believes that, the County of
 27 Spokane failed to discipline UNDERWOOD and GARR and DOES 1-3 for
 28 COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. §1983 • COUNT 1 - UNWARRANTED ENTRY
 AND SEARCH CLAIM 2 - MONELL-RELATED CLAIMS • COUNT 1 AS TO COUNTY OF
 SPOKANE - 58

1 entering and searching Plaintiff's home and interrogating her
 2 child children without judicial authorization, parental consent,
 3 and without specific, reasonable, and articulable evidence to
 4 suggest that the child is in immediate risk of suffering serious
 5 bodily injury. Plaintiff is further informed and believes that,
 6 the County of Spokane never disciplines a CPS worker or
 7 sheriff's officer for entering and searching Plaintiff's home
 8 and interrogating her child without judicial authorization,
 9 parental consent, and without specific, reasonable, and
 10 articulable evidence to suggest that the child is in immediate
 11 risk of suffering serious bodily injury.
 12
 13

14 77. Plaintiff is informed and believes that the
 15 warrantless entry and search of her home and interrogation of
 16 her child by the CPS Workers and sheriff's officers was not an
 17 isolated incident specific to her circumstances. On the
 18 contrary, such warrantless and unlawful seizures are regular and
 19 recurring.
 20

21 78. County of Spokane, including by and through its entity
 22 CPS and Sheriff's Department and its policymaking officials,
 23 breached its duties and obligations to Plaintiff by, but not
 24 limited to, failing to establish, implement and follow the
 25 correct and proper Constitutional policies, procedures, customs
 26 and practices; by failing to properly select, supervise, train,
 27 COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. §1983 • COUNT 1 - UNWARRANTED ENTRY
 28 AND SEARCH CLAIM 2 - MONELL-RELATED CLAIMS • COUNT 1 AS TO COUNTY OF
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1 control, and review its agents and employees as to their
2 compliance with Constitutional safeguards; and by deliberately
3 permitting the Defendants, to engage in the unlawful and
4 unconstitutional conduct as herein alleged with at total and
5 deliberate indifference
6
7 to the rights of affected parents, including Plaintiffs herein.

8 79. County of Spokane knew, or should have known, that by
9 breaching the above-mentioned duties and obligations that it was
10 reasonably foreseeable that its agency policies, practices,
11 customs, and usages would, and did, directly cause Plaintiff to
12 be injured and damaged by County of Spokane's wrongful
13 practices, or deliberate lack of official policies to prevent
14 the known practices from occurring.
15

16 80. In fact, the County of Spokane has been aware, since at
17 least 2013, that its CPS agents and sheriff's officers regularly
18 and customarily interrogated children and obtained entry and
19 searches of homes under duress in the manner described herein -
20 i.e, in the absence of any exigency without first obtaining a
21 warrant and on a regular and continuous basis. Yet, despite such
22 foreknowledge, Spokane County has deliberately refrained and
23 refused to promulgate any form of prophylactic policy to define
24 acceptable conduct of its CPS workers and sheriff's officers in
25
26 such a manner as to protect the citizens with whom they

27 COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. §1983 • COUNT 1 - UNWARRANTED ENTRY
28 AND SEARCH CLAIM 2 - MONELL-RELATED CLAIMS • COUNT 1 AS TO COUNTY OF
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1 regularly come into contact. The conduct described herein is so
2 pervasive that it has become common knowledge that they type of
3 misconduct alleged herein is commonplace within CPS and the
4 Sheriff's Department to such an extent that Spokane County can
5 be said to be deliberately indifferent to the need to promulgate
6 policies and provide training to rein in its CPS agents and
7 sheriff's officers, and prevent the type of misconduct alleged
8 herein. Such a policy of indifference was in fact the moving
9 force behind the violation of Plaintiffs' constitutional rights
10 as alleged herein above. Namely, Plaintiff's civil rights were
11 violated, as mentioned above, when Defendants, while acting
12 under color of state law and in conformance with official
13 customs and practices of the County of Spokane jointly acted to
14 enter Plaintiff's home without a warrant.

17
18 81. These actions, and/or inactions, of County of Spokane
19 were the moving force behind, and direct and proximate cause of
20 Plaintiff's injuries, as alleged herein; and as a result,
21 Plaintiff has sustained general and special damages,
22 to an extent and in an amount to be proven at trial. In
23 addition, Plaintiff has incurred, and will continue to incur,
24 costs and expenses, and may incur attorney fees; including those
25 as authorized by 42 U.S.C. § 1988, to an extent and in an amount
26 subject to proof at trial - or after - trial.

27 COMPLAINT FOR DAMAGES CLAIM 1 - 42 U.S.C. § 1983
28 AND SEARCH CLAIM 2 - MONELL-RELATED CLAIMS
SPOKANE - 61

• COUNT 1 - UNWARRANTED ENTRY
• COUNT 1 AS TO COUNTY OF

JURY DEMAND

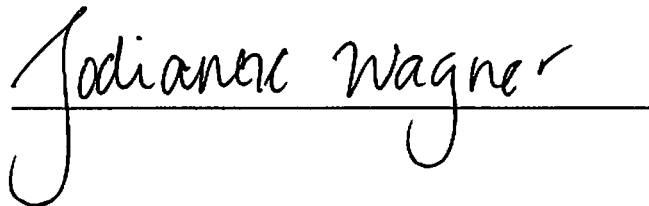
Plaintiff demands a jury trial as to all issues so triable.

PRAYER

WHEREFORE, Plaintiff prays for judgment against Defendants, as to all causes of action, as follows:

1. General damages and special damages according to proof, but in no event less than \$1,000,000;
2. As against only the individual defendants and not any municipality, punitive damages as allowed by law;
3. Attorneys fees pursuant to 42 U.S.C. § 1988, and any other appropriate statute;
4. Costs of suit incurred herein; and
5. Such further relief as the Court deems just and proper.

January 28, 2019

A handwritten signature in cursive script that reads "Jodianne Wagner". The signature is written in black ink and is positioned above a horizontal line.

Jodianne Wagner, Pro Se